

CRL.MP(MD)No.11653 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.09.2025

CORAM:

THE HONOURABLE **MR.JUSTICE SHAMIM AHMED**

CRL.MP(MD)No.11653 of 2025

In

CRL RC(MD)SR.No.31230 of 2025

K.Krishnasamy Pandian,
S/o.(Late).Kulanthaivel Pandian,
70, Vishnu Nagar,
K.R.Nagar Post,
Rajapalayam Taluk,
Virudhunagar District.

Petitioner/Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its,
The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Deputy Superintendent of Police,
Rajapalayam.

3.The Inspector of Police,
South Police Station,
Rajapalayam.

...Respondents/Respondents



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PRAYER: Petition is filed under Section 5 of the Limitation Act, to condone the delay of 342 days in filing the Criminal Revision Case against the order of the learned Judicial Magistrate, Rajapalayam passed in Cr.M.P.3975 of 2024 dated 30.05.2024.

For Petitioner : Mr.M.Chokkusamy Balasubramaniam

For Respondents : Mr.M.Karunanithi
Government Advocate (Criminal Side)

ORDER

Heard Mr.M.Chokkusamy Balasubramaniam, learned counsel appearing for the Petitioner and Mr.M.Karunanithi, learned Additional Government Advocate (Criminal Side), who accepts notice on behalf of the Respondents. Therefore, no further notice is required to be issued to the Respondents.

2. The present Criminal Miscellaneous Petition has been filed under Section 5 of the Limitation Act, to condone the delay of 342 days in filing the Criminal Revision Case against the order of the learned Judicial Magistrate, Rajapalayam passed in Cr.M.P.3975 of 2024 dated 30.05.2024.



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3. The facts of case, in a nutshell, led to filing of this Petition and necessary for disposal of same, are as follows:-

a) A land dispute arose between the Petitioner's family and another person, namely Muthumari and her husband Kasirajan. In this connection, the Surveyor issued notices to both parties. However, the said person not only disputed the notice but also lodged a false complaint against the Petitioner and his family members, with an intention to obstruct the revenue proceedings related to the land measurement. On 02.02.2024, during the official measurement conducted by the Firka Surveyor with the assistance of the Police, it was found that the proposed accused had encroached upon four feet of land belonging to the Petitioner.

b) The Petitioner lodged a criminal complaint with the 2nd Respondent on 31.05.2023 against the persons namely, Muthumari and her husband Kasirajan, for offences including the use of abusive language, criminal intimidation, and land encroachment. However, the 3rd Respondent failed to take appropriate action against the said persons. It is further submitted



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that the proposed accused registered a false case against the Petitioner and his family members on 08.07.2023 in Crime No. 259/2023 for offences under Sections 120(b), 294(b), and 506(2) of the IPC, with the fraudulent intention of preventing the Petitioner from appearing for enquiry. Despite a warning issued by the 3rd Respondent, the proposed accused failed to remove the illegal encroachment of four feet of land belonging to the Petitioner. Consequently, the Petitioner submitted a complaint to the 3rd Respondent on 29.07.2024. However, the 3rd Respondent failed to register an FIR against the said persons. Thereafter, the Petitioner forwarded the complaint to the 1st and 2nd Respondents, and the same was received by the 1st Respondent on 13.07.2023. Despite the Petitioner's representations, no action was taken against the proposed accused. Hence, the Petitioner has filed the present petition under Section 156(3) Cr.P.C., seeking a direction to the Respondents to register an FIR against Muthumari and Kasirajan for offences under Sections 120(b), 294(b), 506(2), 424, and 427 of the Indian Penal Code.



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c) The Trial Court failed to consider the fact that the Petitioner had clearly stated the offence of criminal intimidation committed by the proposed accused, both in his complaint and in the petition filed in Cr.M.P. No. 3975 of 2024. The Trial Court further failed to take into account that the Petitioner's complaint was lodged prior in point of time to that of the said persons. However, the Trial Court erroneously concluded that the Petitioner was abusing the process of law to recriminate the proposed accused and, on that basis, dismissed the petition in Cr.M.P. No. 3975 of 2024 by order dated 30.05.2024. Aggrieved by the said order, the Petitioner has preferred the present Criminal Revision Petition along with a petition to condone the delay of 342 days in filing the same.

4. The learned counsel for the Petitioner submits that the Petitioner is a cardiac patient who has already undergone angioplasty surgery and is under continuous medical treatment once every 15 days. In particular, during the month of March 2025, the Petitioner underwent treatment at Velammal Hospital, Madurai. Due to his medical condition and ongoing treatment, the Petitioner was unable to file the present Criminal Revision



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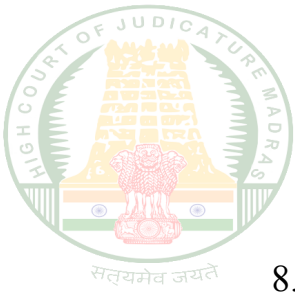
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Petition within the stipulated time, resulting in a delay of 342 days. Hence, the present petition is filed along with a prayer to condone the said delay in the interest of justice.

5. Mr.M.Karunanithi, learned Government Advocate (Criminal Side) appearing for the Respondents, submits that the Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act is, *prima facie*, not legally maintainable. He further contends that the miscellaneous petition seeking condonation of the inordinate delay of 342 days in filing the criminal revision petition is liable to be dismissed.

6. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record.

7. The matter comes up for consideration of application under Section 5 of the Limitation Act with a prayer for condoning the delay of 342 days in filing the Criminal Revision Petition.



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8. The standard period of limitation for filing a Criminal Revision Petition under Section 397 of the Code of Criminal Procedure, 1973, is 90 days from the date of the impugned order, as stipulated under Article 131 of the Limitation Act, 1963. In the present case, the Criminal Revision Petition has been filed with a delay of 342 days. However, under Section 5 of the Limitation Act, 1963, the Court is empowered to condone the delay if the Petitioner is able to demonstrate "sufficient cause" for not preferring the revision within the prescribed limitation period. The explanation offered must be reasonable, bona fide, and not indicative of negligence or inaction.

9. As per the averments made in the application under Section 5 of the Limitation Act, the only ground taken by the Petitioner for condoning the delay is that he is a cardiac patient who has undergone angioplasty surgery and is under continuous medical treatment once every 15 days. Specifically, during March 2025, the Petitioner received treatment at Velammal Hospital, Madurai. Due to his medical condition and ongoing treatment, the Petitioner was unable to file the present Criminal Revision



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Petition within the prescribed period, resulting in a delay of 342 days.
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10. After perusal of the records, this Court finds that there is neither a satisfactory explanation for the inordinate delay of 342 days in filing the present Criminal Miscellaneous Petition, nor are there any medical documents annexed in support of the averments made in the affidavit seeking condonation of delay. Hence, the petition is time-barred and cannot be sustained on the ground of laches.

11. The expression “sufficient cause” and satisfactory explanation has been held to receive a liberal construction so as to advance substantial justice and generally a delay in preferring a petition may be condoned in interest of justice where no gross negligence or deliberate inaction or lack of bona fide is imputable to parties, seeking condonation of delay. In the case of **Collector, Land Acquisition Vs. Katiji, reported in 1987(2) SCC 107**, the Honourable Supreme Court said that when substantial justice and technical considerations are taken against each other, cause of substantial justice deserves to be preferred, for, the other side cannot claim



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to have vested right in injustice being done because of a non deliberate delay. The Court further said that judiciary is respected not on account of its power to legalise injustice on technical grounds, but because it is capable of removing injustice and is expected to do so.

12. In the case of **P.K. Ramachandran Vs. State of Kerala**, reported in **AIR 1998 SC 2276**, the Honourable Supreme Court was pleased to observe as under:-

“Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds.”

13. The Rules of limitation are not meant to destroy rights of parties. They virtually take away the remedy. They are meant with the objective that parties should not resort to dilatory tactics and sleep over their rights. They must seek remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The statute relating to limitation determines a life span for such legal remedy for redress of the legal injury, one has suffered. Time is precious and the



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wasted time would never revisit. During efflux of time, newer causes would come up, necessitating newer persons to seek legal remedy by approaching the Courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The statute providing limitation is founded on public policy. It is enshrined in the maxim *Interest reipublicae up sit finis litium* (it is for the general welfare that a period be put to litigation). It is for this reason that when an action becomes barred by time, the Court should be slow to ignore delay for the reason that once limitation expires, other party matures his rights on the subject with attainment of finality. Though it cannot be doubted that refusal to condone delay would result in foreclosing the suiter from putting forth his cause but simultaneously the party on the other hand is also entitled to sit and feel carefree after a particular length of time, getting relieved from persistent and continued litigation.

14. There is no presumption that delay in approaching the Court is always deliberate. No person gains from deliberate delaying a matter by

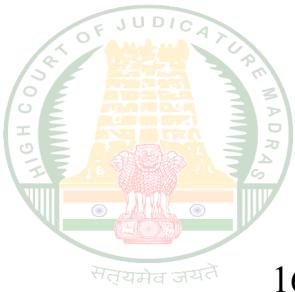


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not resorting to take appropriate legal remedy within time but then the words “sufficient cause“ show that delay, if any, occurred, should not be deliberate, negligent and due to casual approach of concerned litigant, but, it should be bona fide, and, for the reasons beyond his control, and, in any case should not lack bona fide. If the explanation does not smack of lack of bona fide, the Court should show due consideration to the litigant, but, when there is apparent casual approach on the part of litigant, the approach of Court is also bound to change. Lapse on the part of litigant in approaching Court within time is understandable but a total inaction for long period of delay without any explanation whatsoever and that too in absence of showing any sincere attempt on the part of litigant, would add to his negligence, and would be relevant factor going against him.

15. I need not to burden this judgment with a catena of decisions explaining and laying down as to what should be the approach of Court on construing “sufficient cause“ and it would be suffice to refer a very few of them besides those already referred.



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16. In the case of **Shakuntala Devi Jain Vs. Kuntal Kumari, reported, AIR 1969 SC 575**, a three Judge Bench of the Court said that unless want of bona fide of such inaction or negligence as would deprive a party of the protection, the application must not be thrown out or any delay cannot be refused to be condoned.

17. The **Privy Council, in the case of Brij Indar Singh Vs. Kanshi Ram reported in ILR (1918) 45 Cal 94**, observed that true guide for a court to exercise the discretion is whether the appellant acted with reasonable diligence in prosecuting the appeal. This principle still holds good inasmuch as the aforesaid decision of Privy Council as repeatedly been referred to, and, recently in **State of Nagaland Vs. Lipok AO and others, AIR 2005 SC 2191**.

18. In the case of **Vedabai @ Vijayanatabai Baburao Vs. Shantaram Baburao Patil and others, reported in JT 2001 (5) SC 608**, the Court said that under Section 5 of the Act, 1963, it should adopt a pragmatic approach. A distinction must be made between a case where the

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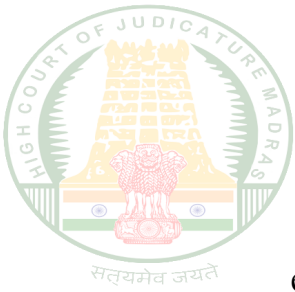
delay is inordinate and a case where the delay is of a few days. In the former case consideration of prejudice to the other side will be a relevant factor so the case calls for a more cautious approach but in the latter case no such consideration may arise and such a case deserves a liberal approach. No hard and fast rule can be laid down in this regard and the basic guiding factor is advancement of substantial justice.

19. In the case of **Pundlik Jalam Patil (dead) by LRS. Vs. Executive Engineer, Jalgaon Medium Project and Another**, reported in (2008) 17 SCC 448, in para 17 of the judgment, the Court said :-

“...The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and state claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and “do not slumber over their rights.”

20. In the case of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai**, reported in 2012 (5) SCC 157, in para 18 of the judgment, the Court said as under:-

“What needs to be emphasized is that even though a liberal and justice oriented approach is required to be adopted in the



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exercise of power under Section 5 of the Limitation Act and other similar statutes, the Courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the Court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bonafides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay. In cases involving the State and its agencies/instrumentalities, the Court can take note of the fact that sufficient time is taken in the decision making process but no premium can be given for total lethargy or utter negligence on the part of the officers of the State and / or its agencies/instrumentalities and the applications filed by them for condonation of delay cannot be allowed as a matter of course by accepting the plea that dismissal of the matter on the ground of bar of limitation will cause injury to the public interest.”

21. After taking into consideration the averments made in the application under Section 5 of the Limitation Act and after hearing the learned counsel for the Petitioner, this Court is not satisfied that the Petitioner has explained the delay in filing the present Criminal Revision Petition.

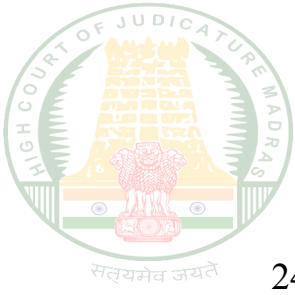


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22. In my view, the kind of explanation rendered herein does not satisfy the observations of the Honourable Supreme Court that if delay has occurred for reasons, which does not smack of mala fide, the Court should be reluctant to refuse condonation. On the contrary, I find that here is a case, which shows complete careless and reckless long delay on the part of the Petitioner, which has remain virtually unexplained at all. Therefore, I do not find any reason to exercise my judicial discretion exercising judiciously so as to justify the condonation of delay in the present case.

23. In the result, in the light of the above said observations and discussions made above and in the light of the decisions referred to above, this Criminal Miscellaneous Petition filed under Section 5 of the Limitation Act with a prayer for condoning the delay of 342 days in filing the Criminal Revision Petition is baseless and the same is hereby rejected.



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24. In view of the above, the Criminal Miscellaneous Petition is **dismissed**, as devoid of merits. There is no order as to costs.

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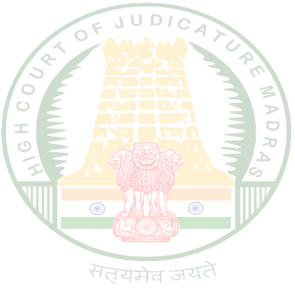
Web:Yes/No

Speaking/Non Speaking

To:

- 1.The Judicial Magistrate,
Rajapalayam.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 4.The Deputy Superintendent of Police,
Rajapalayam.
- 5.The Inspector of Police,
South Police Station,
Rajapalayam.

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SHAMIM AHMED, J.

Nsr

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